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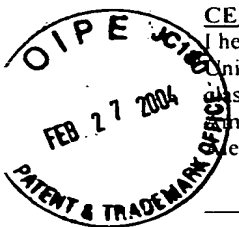
PATENT

1641

Docket No. 25401-11

**CERTIFICATE OF MAILING**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on February 24, 2004.

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*Ramona Anderson*

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Ib Mendel-Hartvig et al : Paper No.:  
 Serial No.: 09/713,763 : Group Art Unit: 1641  
 Filed: November 15, 2000 : Examiner: C. Chin  
 For: Assay Device and Use Thereof

Mail Stop Non-Fee Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above identified application.

- [X] No additional fee is required.  
 [X] Also attached: Copy of TC1600 Restriction Practice Action Plan

The fee has been calculated as shown below:

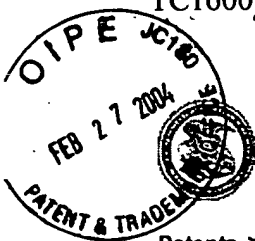
	NO. OF CLAIMS	HIGHEST PREVIOUS PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	27	28	0	x \$18 =	\$0
Independent Claims	1	3	0	x \$86 =	\$0
<b>TOTAL FEE DUE</b>					<b>\$0</b>

- ☐ A check in the amount of \$0 is enclosed.
- ☐ Please charge \$0 to our Visa credit card. Form PTO-2098 is enclosed.
- [X] The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 04-1133, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

*Holly D. Kozlowski*  
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 990854v1



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**TC1600 RESTRICTION PRACTICE ACTION PLAN**

This action plan is designed to improve the quality and consistency of restriction practices in TC1600. The need for this action plan is based on both the results of internal work product reviews and input from applicants and attorneys. As opposed to other Technology Centers, restriction practice in TC1600 is complicated by the complexity of the technology, the types of claim sets being filed on these complex technologies, and the difficulty applying current restriction practice guidelines to claims presented in TC 1600.

This "5-point" action plan will (1) publish examples of claim sets, (2) emphasize rejoinder practice, (3) deliver and publish updated examiner training on restriction practice, (4) enhance the quality review of restriction requirements, and (5) assess the progress of the action plan.

The action plan will be implemented at the same time that the Agency is conducting a study of long-term restriction practice reforms. TC 1600 will begin implementation of this action plan immediately and contemplates that it will be fully implemented in six to nine months.

**1. PUBLISH EXAMPLES OF CLAIM SETS**

We will publish examples of sets of claims that will be examined together regardless of whether they can otherwise be restricted under 35 USC §121 because the search and examination of the claims have been determined not to present a serious burden on the Office at the present time. This will help address some of the issues raised by customers concerning certain types of inventions that they wish to be examined in the same application.

We will also publish examples of claim sets where current rules regarding restriction are difficult to apply.

**2. EMPHASIS ON REJOINDER PRACTICE**

We will, in TC1600, include a form paragraph with all restrictions reminding applicants of their options under rejoinder practice. Both applicants and examiners often overlook the issue of rejoinder. This form paragraph in our Office actions will be a clear reminder to applicants of their ability to request rejoinder under the appropriate conditions. Use of this form paragraph will begin immediately.

**3. EXAMINER TRAINING ON RESTRICTION PRACTICE**

We will deliver restriction practice training to all TC 1600 examiners, including training examples targeted to specific workgroups within TC 1600, focusing on

high-impact art units first. This training will focus on proper restriction practices including appropriate analyses and grouping of claims, and proper formulation of and support for a restriction requirement. The training materials will be published on the USPTO website.

#### 4. ENHANCED REVIEW OF RESTRICTION REQUIREMENTS

We will implement a second pair-of-eyes review on restrictions throughout Technology Center 1600, beginning with art units where either (1) the number of restrictions is particularly high, or (2) indications of poor quality restrictions are noted in the reviews. This includes a review of not only first action restrictions, but also all restriction requirements in second and subsequent Office Actions.

This will allow us to screen and correct specific cases, as well as identify problem areas for training. This will also help address some specific complaints concerning the number and types of restriction requirements in second and subsequent Office Actions. This second pair-of-eyes initiative will begin immediately.

#### 5. CONTINUOUS ASSESSMENT

In order to assess the impact of this restriction practice action plan, we will:

- a. Sample restrictions at periodic intervals to monitor quality and average number of divided inventions. This includes a special review of all applications in which a restriction decision has been petitioned,
- b. Monitor the number and quality of second and subsequent restrictions, and
- c. Survey customers, for example at quarterly Biotech/Chemical/Pharmaceutical Customer Partnership meetings, for their perception of TC 1600 restriction practices.

**KEY:** =online business system =fees =forms =help =laws/regulations =definition (glossary)

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